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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 HENRY JAMES,

10 Plaintiff,

11 v.

12 FPI MANAGEMENT, INC., et al.,

13 Defendants.

CASE NO. C18-998 RSM

ORDER GRANTING PLAINTIFF'S  
MOTION FOR SERVICE BY U.S.  
MARSHAL

14 This matter is before the Court on Plaintiff's Motion for Service by U.S. Marshal. Dkt.  
15 #38. Plaintiff is proceeding in this matter *in forma pauperis* and seeks assistance serving two  
16 unserved defendants. For the reasons below, the Court grants the Motion.

17 Federal Rule of Civil Procedure 4(c)(3) provides:

18 At the plaintiff's request, the court may order that service be made by a United  
19 States marshal or deputy marshal or by a person specially appointed by the court.  
20 The court must so order if the plaintiff is authorized to proceed *in forma pauperis*  
21 under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.

22 Rule 4(c)(3) allows the Court to order service by the Marshal when requested and mandates it  
23 for *in forma pauperis* prisoner plaintiffs proceeding under 28 U.S.C. § 1915. Where the plaintiff  
24 is not a prisoner, service by Marshal is not mandated. Plaintiff was not a prisoner at the time he  
25 filed this action but indicates that he was recently arrested and appears to have been held in a  
26 county jail for some time. Dkts. #38 and #42. Plaintiff has also provided sufficient information

1 for service to be effected. *Id.* For these reasons, and because of Plaintiff's limited means, the  
2 Court will assist in this matter and grants Plaintiff's Motion.

3 Having reviewed Plaintiff's Motion, and for the reasons stated above, the Court finds and  
4 ORDERS:

- 5 1. Plaintiff's Motion for Service by U.S. Marshal (Dkt. #38) is GRANTED.
- 6 2. The Clerk shall issue Summonses for Michael Chin and Patricia Lally at the following  
7 address:  
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9 Seattle Office for Civil Rights  
10 810 Third Ave., Central Building  
11 Suite 750  
12 Seattle, WA 98101.
- 13 3. The United States Marshal shall send the following to Defendants Chin and Lally by  
14 separate first-class mailings:
  - 15 a. a copy of the Complaint (Dkt. #5) and a copy of this Order;
  - 16 b. a copy of the appropriate Summons;
  - 17 c. two copies of the Notice of Lawsuit and Request for Waiver of Service of  
18 Summons;
  - 19 d. a Waiver of Service of Summons; and
  - 20 e. a return envelope, postage prepaid, addressed to the Clerk's Office.
- 21 4. All costs of service shall be advanced by the United States.
- 22 5. The Clerk shall assemble the necessary documents to effect service within five days.
- 23 6. Defendants Michael Chin and Patricia Lally shall have **thirty (30) days** within which  
24 to return the Waiver of Service of Summons. If the Defendant timely returns the  
25 signed Waiver, that Defendant shall have **sixty (60) days** after the date designated on  
26 the Notice of Lawsuit to file and serve an Answer or a motion directed to the

1 Complaint, as permitted by Rule 12 of the Federal Rules of Civil Procedure. **If a**  
2 **Defendant fails to timely return the signed Waiver, that Defendant will be**  
3 **personally served with a Summons and Complaint and may be required to pay**  
4 **the full costs of such service, pursuant to Rule 4(d)(2).** A Defendant who has been  
5 personally served shall file an Answer or motion permitted under Rule 12 within  
6 **twenty-one (21) days** after service.

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8 DATED this 28<sup>th</sup> day of March 2019.

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11 RICARDO S. MARTINEZ  
12 CHIEF UNITED STATES DISTRICT JUDGE  
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